

REMARKS / ARGUMENTS

The present application includes pending claims 1-30, all of which have been rejected. By this Amendment, claims 1-9, 11-19, and 21-30 have been amended, as set forth above, to further clarify the language used in these claims and to further prosecution of the present application. The Applicant respectfully submits that the claims define patentable subject matter.

Initially, the Applicant notes that a goal of patent examination is to provide a prompt and complete examination of a patent application.

It is essential that patent applicants obtain a prompt yet complete examination of their applications. Under the principles of compact prosecution, each claim should be reviewed for compliance with every statutory requirement for patentability in the *initial review* of the application, even if one or more claims are found to be deficient with respect to some statutory requirement. Thus, Office personnel *should* state *all* reasons and bases for rejecting claims in the *first* Office action. Deficiencies should be explained clearly, particularly when they serve as a basis for a rejection. Whenever practicable, Office personnel should indicate how rejections may be overcome and how problems may be resolved. A failure to follow this approach can lead to unnecessary delays in the prosecution of the application.

See Manual of Patent Examining Procedure (MPEP) § 2106(II). As such, the Applicant assumes, based on the goals of patent examination noted above, that the present Office Action has set forth "all reasons and bases" for rejecting the claims.

Claims 1-30 stand rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claims 1-30 stand rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 7,032,037, issued to Garnett, et al. (hereinafter, Garnett). The Applicant respectfully traverses these rejections at least for the reasons previously set forth during prosecution and at least based on the following remarks.

REJECTION UNDER 35 U.S.C. § 112, 2nd PARAGRAPH

The Applicant first turns to the rejection of claims 1-30 under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Regarding this rejection, the Office Action states the following:

Claims 1, 11, and 21 recites the limitation "determine at least one function associated with said at least one received packet". It is not clear what "function" applicant is referring. There is insufficient antecedent basis for this limitation in the claim.

Claims 2, 12, and 22 recites the limitation "association between a particular characteristic of said packet and a particular function". It is not clear what "particular function" and "particular characteristic" applicant is referring. There is insufficient antecedent basis for this limitation in the claim.

Claims 2-10 and 12-20 and 22-30 depend on claims 1, 11, and 21, respectively. Therefore, there is insufficient antecedent basis for the same limitation in the claims.

See Office Action at pages 2-3. The Applicant points out that the above-referenced terms, underlined by the Examiner, are being properly used and there is no lack of antecedent basis issue. For example, the term "particular function" is being used with the article "a" in front of it, since this term is being used for a first time in claims 2, 12, and 22.

Therefore, the Applicant respectfully traverses the above rejection under 35 U.S.C. § 112, second paragraph. However, the Applicant has amended claims 1-2, 11-12, and 21-22 to further clarify the language used in these claims and to further prosecution of the present application. The Applicant submits that claims 1-30 are allowable and the rejection under 35 U.S.C. § 112, second paragraph should be withdrawn.

REJECTION UNDER 35 U.S.C. § 102

I. Garnett Does Not Anticipate Claims 1-30

The Applicant now turns to the rejection of claims 1-30 under 35 U.S.C. 102(e) as being anticipated by Garnett. With regard to the anticipation rejections under 102(e), MPEP 2131 states that "[a] claim is anticipated only if **each and every element** as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." See Manual of Patent Examining

Procedure (MPEP) at 2131 (internal citation omitted). Furthermore, "[t]he identical invention must be shown in as complete detail as is contained in the ... claim." See id. (internal citation omitted).

A. Rejection of Independent Claim 1 under 35 U.S.C. § 102(e)

With regard to the rejection of independent claim 1 under 102(e), the Applicant submits that Garnett does not disclose or suggest at least the limitation of "determining at least one data-processing function associated with said at least one received packet, based on said at least one received packet," as recited by the Applicant in independent claim 1. Regarding claim 1, the Office Action states the following:

Garnett discloses a method for processing data in a server, the method comprising: receiving at least one [data packet] packet (see column 32, line 55 - column 33, line 44 and column 35, line 7 - column 36, line 13); **determining at least one function [load balancing]** associated with said at least one received packet (see column 32, line 55 - column 33, line 44 and column 35, line 7 - column 36, line 13); and **steering [forwarding or transmitting outgoing packet] said at least one received packet to at least one of a plurality of blade servers** that handles said determined function (see column 32, line 55 - column 33, line 44 and column 35, line 7 - column 36, line 13).

See the Office Action at pages 3-4 (emphasis added). The Applicant points out that the Examiner is using the same citations (column 32, line 55 - column 33, line 44 and column 35, line 7 - column 36, line 13) of Garnett to reject all of the elements in Applicant's claim 1.

The above-reference citation from columns 32-33 of Garnett discloses the logical arrangement of a load balancer within a computer system and the paths of data packets through a computer system using a load balancer. The citation from columns 35-36 discloses how load balancing is performed by a load balancer of Garnett.

The Examiner has equated the "determining at least one data-processing function" limitation to the "load balancing" of Garnett. The Applicant respectfully disagrees. As illustrated in Figures 19a and 19b, Garnett discloses that load balancing is initially performed on all of the incoming data traffic. See Garnett, col. 32, lines 63-65 and col. 33, lines 2-3. Therefore, load balancing is uniformly performed with regard to all incoming packets and there is no determination of a data-processing function based on the received packet.

Furthermore, assuming for the sake of argument that the "determining at least one data-processing function" limitation is the same as the "load balancing" of Garnett, then Garnett does not disclose steering of the at least one received packet to one or more of a plurality of blade servers that handles the determined data-processing function (which the Examiner has equated to the load balancing), as recited by the Applicant in claim 1. As stated above, Garnett discloses that load balancing is performed with regard to all incoming packets. Therefore, steering for purposes of load balancing, after determination of a data-processing function, is not possible in the system of Garnett.

The Applicant also points out that load balancing is performed by the load balancer 501, which is not a blade server, as disclosed by the Applicant.

Therefore, the Applicant maintains that Garnett does not disclose or suggest at least the limitation of "determining at least one data-processing function associated with said at least one received packet, based on said at least one received packet," as recited by the Applicant in independent claim 1.

Accordingly, independent claim 1 is not anticipated by Garnett and is allowable. Independent claims 11 and 21 are similar in many respects to the method disclosed in independent claim 1. Therefore, the Applicant submits that independent claims 11 and 21 are also allowable over the references cited in the Office Action at least for the reasons stated above with regard to claim 1.

B. Rejection of Dependent Claims 2-10, 12-20 and 22-30

Based on at least the foregoing, the Applicant believes the rejection of independent claims 1, 11 and 21 under 35 U.S.C. § 102(e) as being anticipated by Garnett has been overcome and requests that the rejection be withdrawn. Additionally, claims 2-10, 12-20 and 22-30 depend from independent claims 1, 11 and 21, respectively, and are, consequently, also respectfully submitted to be allowable.

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The Applicant also reserves the right to argue additional reasons beyond those set forth above to support the allowability of claims 2-10, 12-20 and 22-30.

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CONCLUSION


Based on at least the foregoing, the Applicant believes that all claims 1-30 are in condition for allowance. If the Examiner disagrees, the Applicant respectfully requests a telephone interview, and requests that the Examiner telephone the undersigned Attorney at (312) 775-8176.

The Commissioner is hereby authorized to charge any additional fees or credit any overpayment to the deposit account of McAndrews, Held & Malloy, Ltd., Account No. 13-0017.

A Notice of Allowability is courteously solicited.

Respectfully submitted,

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